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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

181022969-9171-01

RIN 0648-BI55

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve changes to the Pacific Halibut Catch Sharing Plan for the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. In addition, NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the International Pacific Halibut Commission. These measures include the recreational fishery seasons and allocations and management measures for Area 2A. These actions are intended to conserve Pacific halibut and provide angler opportunity where available.

DATES: Comments on the proposed rule must be received on or before *[insert date 15 days after date of publication in the Federal Register]*.

ADDRESSES: Submit your comments, identified by NOAA-NMFS- 2018-0132, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0132, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Kathryn Blair, West Coast Region, NMFS, 1201 NE Lloyd Blvd Suite 1100, Portland, OR, 97232.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post them for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Docket: This rule is accessible via the Internet at the Office of the Federal Register Web site at http://www.access.gpo.gov/su_docs/aces/aces140.html. Background information and documents are available at the NMFS West Coast Region Web site at http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html and at the Council’s Web site at <http://www.pcouncil.org>. Other comments received may be accessed through Regulations.gov.

FOR FURTHER INFORMATION CONTACT: Kathryn Blair, phone: 503-231-6858, fax: 503-231-6893, or e-mail: kathryn.blair@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act (Halibut Act) of 1982 gives the Secretary of Commerce responsibility for implementing the provisions of the Halibut Convention between the United States and Canada. 16 U.S.C. 773-773k. The Halibut Act requires that the Secretary adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act 16 U.S.C. 773(c). The Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC) to govern the Pacific halibut catch in their corresponding U.S. Convention waters. 16 U.S.C. 773c(c).

At its annual meeting in February 2019, the IPHC recommended an Area 2A catch limit of 1,500,000 lb (680.4 metric tons (mt)) for 2019. This catch limit is derived from the total constant exploitation yield (TCEY) of 1,650,000 lb (748.4 mt), which includes commercial discards and bycatch estimates calculated using a formula developed by the IPHC. The table below shows the fishery and subarea allocations resulting from the framework described in the 2019 Area 2A Catch Sharing Plan.

Table 1. Area 2A catch limit and fishery subarea allocations for 2019.

	Pounds	Metric Tons
Area 2A TCEY	1,650,000	748.4
Area 2A Catch Limit	1,500,000	680.4
Tribal commercial fishery	497,000	225.4
Incidental commercial during sablefish fishery	70,000	31.8
Non-tribal directed commercial fishery	254,426	115.4
Incidental commercial catch during salmon troll fishery	44,899	20.4
Washington recreational fishery - Puget Sound	77,550	35.2
Washington recreational fishery - North Coast	128,187	58.1
Washington recreational fishery - South Coast	62,896	28.5
Columbia River recreational fishery	15,127	6.9
Oregon recreational fishery - Central Oregon	271,592	123.2
Oregon recreational fishery - Southern Oregon	11,322	5.1
California recreational fishery	39,000	17.7

The Area 2A catch limit, tribal commercial fishery allocation, and commercial fishery allocations are adopted by the IPHC and will be published in the *Federal Register* after acceptance by the Secretary of State in accordance with 50 CFR 300.62.

Since 1988, NMFS has implemented annual Catch Sharing Plans that allocate the IPHC regulatory Area 2A Pacific halibut catch limit between treaty Indian and non-Indian harvesters, and among non-Indian commercial and recreational (sport) fisheries. The Pacific Fishery Management Council (Council) develops Catch Sharing Plans in accordance with the Halibut Act. In 1995, the Council recommended, and NMFS approved and implemented a long-term Area 2A Catch Sharing Plan (60 FR 14651; March 20, 1995). NMFS has been implementing adjustments to the Area 2A Catch Sharing Plan based on Council recommendations each year to address the changing needs of these fisheries. While the full Catch Sharing Plan is not published in the *Federal Register*, it is made available on the Council and NMFS websites.

This rule proposes to adopt the Council's recommended changes to the Catch Sharing Plan for IPHC regulatory Area 2A, which affect only the recreational fishery. In addition, this rule would revise the recreational Pacific halibut fishery management measures, such as season dates and bag limits, that are set in NMFS regulations. These management measures are detailed in the Council's recommended Catch Sharing Plan and were developed through the Council's public process. This rule proposes 2019 season dates for the recreational fisheries consistent with the Council's recommendations as well as recommendations from Oregon and Washington. The proposed season dates for California are identical to those from 2018.

For 2019, the Council recommended minor modifications to recreational (sport) fisheries to better match the needs of the fishery. The Catch Sharing Plan changes provide flexibility to the state recreational fishery managers for opening the South Coast nearshore fishery and for

extending the Columbia River fishery into the summer by both modifying the number of open days and the process for setting open days.

Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, WA

The proposed 2019 Catch Sharing Plan allows incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, WA, when the Washington recreational catch limit is 214,110 lb (101.7 mt) or greater, provided that a minimum of 10,000 lb (4.5 mt) is available. The Area 2A catch limit for 2019 is great enough to allow 70,000 lb (31.8 mt) for incidental halibut retention in the sablefish primary fishery, which occurs when the catch limit is 1,500,000 lb (680.4 mt) or more. NMFS intends to publish the incidental halibut landing restrictions in the sablefish fishery in the *Federal Register* as an inseason action by April 1, 2019, or as soon as possible thereafter.

Proposed Changes to the 2019 Area 2A Catch Sharing Plan

Each year, at the Council's September meeting, the Washington Department of Fish and Wildlife (WDFW), Oregon Department of Fish and Wildlife (ODFW), California Department of Fish and Wildlife (CDFW), NMFS, and treaty Indian tribes in the State of Washington with treaty fishing rights for halibut have an opportunity to propose changes to the Catch Sharing Plan for consideration by the Council. At the September 2018 Council meeting, only WDFW and ODFW proposed changes to the Catch Sharing Plan. The Council voted to solicit public input on all of the changes recommended by WDFW and ODFW. WDFW and ODFW subsequently held public workshops on the recommended changes.

At its November 2018 meeting, the Council considered the results of the state-sponsored workshops on the recommended changes to the Catch Sharing Plan, along with public input provided at the 2018 September and November Council meetings, and made its final

recommendations for modifications to the Catch Sharing Plan. NMFS proposes to approve all of the Council's recommended changes to the Catch Sharing Plan as discussed below.

1. In section (f)(1)(iii), the Council recommended removing the set-aside of 10 percent or 2,000 lb (0.91 mt) for the nearshore fishery in Washington South Coast subarea, instead allowing the nearshore fishery to be open after the primary (all-depth) fishery closes, if sufficient quota remains. The goal of this change is to clarify that the nearshore fishery will open only if there is sufficient quota after the primary fishery has closed. In previous years, the South Coast primary fishery has exceeded its sub-allocation, and the nearshore fishery has remained closed.
2. In section (f)(1)(iv), the Council recommended modifying the method used in setting open days for the Columbia River subarea. Specifically, the Council recommended that the all-depth fishery open dates would be determined after consultation between ODFW and WDFW, in time for final action at the November Council meeting. This change allows for collaboration between stakeholders in Washington and Oregon to determine a season opening that meets the needs of the fishery.
3. In section (f)(1)(iv), the Council recommended modifying the open days for the Columbia River subarea from three to two days per week, with openings occurring on a combination of Thursday, Friday, or Sunday. In 2018, the fishery was open three days per week and the season lasted only five days. This change, combined with the change mentioned above, is expected to extend the season into the summer.

Additional discussion of these changes is included in the materials submitted to the Council at its September and November meetings, available at <https://www.pcouncil.org/council-operations/council-meetings/past-meetings/>. A version of the proposed Catch Sharing Plan

including these changes can be found at

[http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.htm](http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html)

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Proposed 2019 Recreational Fishery Management Measures

On the Council's recommendation, NMFS also proposes recreational fishery management measures, including season dates and bag limits that are necessary to implement the Council's recommended Catch Sharing Plan in 2019. The Catch Sharing Plan includes a framework for setting fishing open days by subarea, and each state submits final recommended season dates annually. This proposed rule contains dates for the recreational (sport) fisheries based on the 2019 Catch Sharing Plan as recommended by the Council. The season dates preferred for the States of Washington and Oregon, following input from the public, are proposed here. The season dates proposed for California are the same as they were in 2017 and 2018. The final rule will select dates based on public comment, including comments from California after it has concluded its public meetings gathering input on season dates.

The annual domestic management measures are published each year through a final rule under NMFS' authority to implement the Halibut Convention. 50 CFR 300.62. As provided in the Halibut Act at 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, regulations recommended by the IPHC in accordance with the Convention. For the 2018 fishing season, the final rule for the commercial fisheries and IPHC regulations was published on March 9, 2018, (83 FR 10390) and the final rule for Area 2A recreational fisheries was published on March 26, 2018 (83 FR 13090). The final rule establishing catch limits for Area 2A published on March 26, 2018 (83 FR 13080).

The section numbers below correspond to IPHC regulation sections in the March 9, 2018, final rule.

NMFS proposes the following regulations to implement the Catch Sharing Plan recommended by the Council under the Halibut Act. After the opportunity for public comment, NMFS will publish a final rule implementing the Catch Sharing Plan and annual management measures, as required by implementing regulations at 50 CFR 300.63(b)(1). The numbering of this section corresponds to the annual regulations promulgated by the IPHC; IPHC regulations for 2019 will be finalized via separate rulemaking by March 15, 2019, or as soon as possible thereafter. This proposed rule would then add the following text to Section 27 of the annual domestic management measures and paragraph (8) of the 2019 IPHC regulations, “Sport Fishing for Pacific Halibut—IPHC Regulatory Area 2A”:

(8) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions consistent with 50 CFR 300.63(c). All sport fishing in Area 2A is managed on a “port of landing” basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(a) The quota for the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is 77,550 lb (35.2 mt).

(i) The fishing seasons are:

(A) Fishing is open May 2, 4, 9, 11, 18, 24, and 26; June 6, 8, 20, and 22, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at 800-662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.) (North Coast subarea), is 128,187 lb (58.1 mt).

(i) The fishing seasons are:

(A) Fishing is open May 2, 4, 9, 11, 18, 24, and 26; June 6, 8, 20, and 22, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at 800-662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing with recreational gear in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at 50 CFR 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.), and Leadbetter Point, WA (46°38.17' N. lat.) (South Coast subarea), is 62,896 lb (28.5 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to

46°58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

- (1) 47°31.70' N. lat, 124°37.03' W. long;
- (2) 47°25.67' N. lat, 124°34.79' W. long;
- (3) 47°12.82' N. lat, 124°29.12' W. long;
- (4) 46°58.00' N. lat, 124°24.24' W. long.

The primary fishery season dates are May 2, 5, 9, 12, and 24, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at 800-662-9825. If sufficient quota remains, the fishing season in the nearshore area commences the Saturday subsequent to the closure of the primary fishery, and continues 7 days per week until 62,896 lb (28.5 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Seaward of the boundary line approximating the 30-fm depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360, subpart G.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast

Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(d). The Westport Offshore YRCA is defined at 50 CFR 660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.), and Cape Falcon, OR (45°46.00' N. lat.)(Columbia River subarea), is 15,127 lb (6.9 mt).

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 500 lb (0.23 mt) of the subarea allocation. The nearshore fishery extends from Leadbetter Point (46°38.17' N. lat., 124°15.88' W. long.) to the Columbia River (46°16.00' N. lat., 124°15.88' W. long.) by connecting the following coordinates in Washington 46°38.17' N. lat., 124°15.88' W. long. 46°16.00' N. lat., 124°15.88' W. long. and connecting to the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens May 6, and continues on Monday, Tuesday, and Wednesday each week until the nearshore allocation is taken, or September 30, whichever is earlier. The all-depth fishing season is open May 2, 5, 9, 12, 24, and 26. If sufficient quota remains after May 26, the Columbia River subarea would be open two days per week (Thursday and Sunday) until 15,127 lb (6.9 mt) are estimated to have been taken and the season is closed by the Commission, or September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred

inseason to another Washington and/or Oregon subarea by NMFS. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed when halibut are on board the vessel, except sablefish, Pacific cod, flatfish species, and lingcod caught north of the Washington-Oregon border during the recreational halibut fishery, when allowed by Pacific Coast groundfish regulations, during days open to the all-depth fishery only.

(iv) Taking, retaining, possessing, or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon ($45^{\circ}46.00'$ N. lat.) and Humbug Mountain ($42^{\circ}40.50'$ N. lat.) (Oregon Central Coast subarea), is 271,592 lb (123.2 mt).

(i) The fishing seasons are:

(A) The first season (the “inside 40-fm” fishery) commences June 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon “inside 40-fm” fishery of 32,591 lb (14.8 mt), or any inseason revised subquota, is estimated to have been taken and the season is closed by the Commission, or October 31, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between $45^{\circ}46.00'$ N. lat. and $42^{\circ}40.50'$ N. lat. is defined at § 660.71(k).

(B) The second season (spring season), which is for the “all-depth” fishery, is open May 9, 10, 11; 16, 17, 18; 23, 24, 25; 30, 31, June 1; and 6, 7, 8. The allocation to the all-depth fishery is 171,103 lb (77.6 mt). If sufficient unharvested quota remains for additional fishing

days, the season will re-open June 20, 21, 22; July 4, 5, 6; and July 18, 19, 20. Notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(C) The third season (summer season), which is for the “all-depth” fishery, will be August 2, 3; 16, 17; 30, 31; September 13, 14; 27, 28; October 11, 12; and 25, 26; and will continue until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, Oregon, are estimated to have been taken and the area is closed by the Commission. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning August 2 and 3, and ending when there is insufficient quota remaining, whichever is earlier. If after September 3, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 6 and 7, and ending October 31. After September 3, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing when the groundfish fishery is restricted by depth, no groundfish may be taken and retained, possessed or landed, when halibut are on board the vessel, except sablefish, Pacific cod, and flatfish species, when allowed by

groundfish regulations, if halibut are onboard the vessel. During days open to all-depth halibut fishing when the groundfish fishery is open to all depths, any groundfish species permitted under the groundfish regulations may be retained, possessed or landed if halibut are on board the vessel. During days open to nearshore halibut fishing, flatfish species may be taken and retained seaward of the seasonal groundfish depths restrictions, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at § 660.70(f).

(f) The quota for landings into ports in the area south of Humbug Mountain, OR (42° 40.50' N. lat.) to the Oregon/California Border (42° 00.00' N. lat.)(Southern Oregon subarea) is 11,322 lb (5.1 mt).

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(iii) No Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish, Pacific cod, and flatfish species, in areas closed to groundfish, if halibut are on board the vessel.

(g) The quota for landings into ports south of the Oregon/California Border (42°00.00' N. lat.) and along the California coast is 39,000 lb (17.7 mt).

(i) The fishing season will be open May 1 through June 15, July 1 through July 15, August 1 through August 15, and September 1 through October 31, or until the subarea quota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. NMFS will announce any closure by the Commission on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) provides the Secretary of Commerce with the general responsibility to carry out the Halibut Convention between Canada and the United States for the management of Pacific halibut, including the authority to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and Halibut Act. This proposed rule is consistent with the Secretary's authority under the Halibut Act.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

NMFS finds good cause to waive a longer notice and comment period, in favor of a 15-day comment period, pursuant to 5 U.S.C. 553(b)(3)(B). The final rule must be effective by May 1, in time for the start of recreational Pacific halibut fisheries. The 2019 Catch Sharing Plan provides the framework for the annual management measures and subarea allocations based on the 2019 Area 2A catch limit for Pacific halibut. Some recreational fishery subareas open May 1, 2019, and the final rule for this action implements season dates for those fisheries. Additionally, the final rule would implement a change to the Catch Sharing Plan season structure for the Washington South Coast and Columbia River subareas, which starts in early May. For these reasons, delaying the rule would cause economic harm to the associated fishing communities by reducing fishing opportunity at the start of the fishing year. Due to the recent government shutdown, NMFS was not able to provide notice of this proposed rule earlier. However, NMFS is able to take public comment for 15 days while still ensuring a final rule is promulgated in time for the May 1 fishery opening date.

The Regulatory Flexibility Act (RFA) requires Federal agencies to prepare, and make available for public comment, both an initial and final regulatory flexibility analysis (IRFA and FRFA), unless the agency can certify that the proposed and/or final rule would not have a significant economic impact on a substantial number of small entities. These analyses describe the impact on small businesses, non-profit enterprises, local governments, and other small entities as defined by the RFA (5 U.S.C. 603). This analysis is to inform the agency and the public of the expected economic effects of the alternatives, and aid NMFS in considering any significant regulatory alternatives that would accomplish the applicable objectives and minimize the economic impact on affected small entities. The RFA does not require the alternative with

the least cost or with the least adverse effect on small entities be chosen as the preferred alternative.

The IRFA must only address the effects of a proposed rule on entities subject to the regulation (*i.e.*, entities to which the rule will directly apply) rather than all entities affected by the regulation, which would include entities to which the rule will indirectly apply.

Part 121 of Title 13, Code of Federal Regulations (CFR), sets forth, by North American Industry Classification System (NAICS) categories, the maximum number of employees or average annual gross receipts a business may have to be considered a small entity for RFA purposes. See 13 CFR 121.201. Under this provision, the U.S. Small Business Administration (SBA) established criteria for businesses in the fishery sector to qualify as small entities. Standards are expressed either in number of employees, or annual receipts in millions of dollars. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small (13 CFR 121.201).

Provision is made under SBA's regulations for an agency to develop its own industry-specific size standards after consultation with SBA's Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)).

Description of the Reasons Why Action by the Agency Is Being Considered

Each year, the states of Washington, Oregon, California, and the treaty tribes that fish for halibut meet with their fishery participants to review halibut management under the Catch Sharing Plan. Based on feedback from these meetings and experience from the previous year's fishing season, the states or the tribes may propose changes to the Catch Sharing Plan for the upcoming year at the Council's September and November meetings. Proposed changes to the Catch Sharing Plan are intended to remedy any problems encountered during the previous year's

management, problems with other fisheries with overlapping management jurisdiction (*i.e.*, Pacific Coast groundfish), or other anticipated problems.

Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The Northern Pacific Halibut Act (Halibut Act) of 1982 gives the Secretary of Commerce responsibility for implementing the provisions of the Halibut Convention between the United States and Canada. The Halibut Act requires that the Secretary adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act. The Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the IPHC to govern the Pacific halibut catch in their corresponding U.S. Convention waters. The Council's main management objective for the Pacific halibut fishery in Area 2A is to manage fisheries to remain within the catch limit for Area 2A.

A second objective is to allow each commercial, recreational (sport), and tribal fishery to target halibut in the manner that is appropriate to meet the conservation requirements for species that co-occur with Pacific halibut. A third objective is to meet the needs of fishery participants in particular fisheries and fishing areas.

A Description and, Where Feasible, Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

This rule proposes changes to only the sport fishing sector of the halibut fishery. Therefore, this rule may affect some charterboat operations in Area 2A. Previous analyses determined that charterboats are small businesses. *See* 77 FR 5477 (Feb. 3, 2012) and 76 FR 2876 (Jan. 18, 2011). Charter fishing operations are classified under NAICS code, 487210, with

a corresponding SBA size standard of \$7.5 million in annual receipts. No commercial fishing entities are directly affected by this rule.

In 2018, the IPHC issued 133 licenses to the charterboat fleet. Recent information on charterboat activity is not available, but prior analysis indicated that 60 percent of the IPHC charterboat license holders (around 80 vessels) may be affected by these regulations. Private vessels used for recreational fishing are not businesses, and are therefore not subject to the RFA.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of this Proposed Rule

The proposed changes to the Catch Sharing Plan and domestic management measures do not include any new reporting or recordkeeping requirements.

Federal Rules That May Duplicate, Overlap or Conflict with the Proposed Rule

There are no relevant federal rules that may duplicate, overlap, or conflict with this action.

Description and Estimate of Economic Effects on Entities, by Entity Size and Industry

The major effect of halibut management on small entities will be from the catch limit decisions made by the IPHC, a decision independent from this proposed action. This proposed action only makes minor changes to the Plan to provide increased recreational opportunities under the allocations that result from the Area 2A catch limit. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionately negative effect on small entities versus large entities. The proposed changes to the plan are considered minor, with minimal economic effects.

An Explanation of the Criteria Used to Evaluate Whether the Rule Would Impose “Significant” Economic Effects

The proposed recreational management measures implement the Catch Sharing Plan by managing the fisheries to meet the differing fishery needs of the various areas along the coast according to the Catch Sharing Plan's objectives. These changes were uncontroversial throughout the Council's public process and are considered minor because the timing and level of participation are not expected to change. Removing the set-aside in the nearshore fishery is not expected to impact the fishery participants, because in previous years the South Coast primary fishery has exceeded its sub-allocation, and the nearshore fishery has remained closed. This proposed rule would clarify that the fishery is open only if there is quota remaining. Reducing the number of open days per week in the Columbia River subarea from three open days (status quo – open Thursday, Friday, and Sunday), to two open days (open a combination of Thursday, Friday, or Sunday), is expected to allow for the season to stay open through the summer, though not increase the number of open days. Allowing the season to remain open for three days could result in the season ending at an earlier date. The proposed Catch Sharing Plan changes are not expected to change the timing and participation in these recreational fisheries, therefore the changes are not expected to have a significant economic impact on a substantial number of small entities.

An Explanation of the Criteria Used to Evaluate Whether the Rule Would Impose Effects on “a Substantial Number” of Small Entities

Participants in the recreational Washington and Columbia River subareas will be impacted by these changes, and all of the entities are considered small. However, the effects of the rule would be minimal as described above. In 2017, the average number of participants in the Columbia River subarea was 73 (private vessels and charterboats are not differentiated), with the highest number on the first two days and last day. Participation in 2019 is expected to be similar.

A Description of, and an Explanation of the Basis for, Assumptions Used

In the description of the entities affected, estimates of the number of charterboats were based off a 2004 report by the Pacific States Marine Fisheries Commission. This report has not been updated and the number of entities is assumed to be similar.

Description of any Significant Alternatives to the Proposed Rule that Accomplish the Stated Objectives of Applicable Statutes and That Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

The status quo alternative would not achieve the objectives and requirements of the Convention and Halibut Act, specifically conserving Pacific halibut and allocating quota equitably. Because the effects of the rule would be minimal, there are no other additional significant alternatives that would further minimize the impact of the proposed rule on small entities while achieving the goals and objectives of the Convention and Halibut Act. In addition, these changes were proposed by stakeholders to address the needs of the fisheries, and, as explained above, the proposed changes are not expected to have a significant economic impact on a substantial number of small entities.

A copy of this analysis is available from the Council or NMFS (see **ADDRESSES**).

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent

of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

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